

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT CHATTANOOGA

TENNESSEE STATE LODGE OF THE	:	
FRATERNAL ORDER OF POLICE,	:	
SEAN EMMER and ADAM COOLEY,	:	
	:	
Plaintiffs,	:	CASE NO. 1:13-cv-00371
	:	
v.	:	JUDGE MATTICE/CARTER
	:	
CHATTANOOGA POLICE DEPARTMENT,	:	JURY DEMAND
CITY OF CHATTANOOGA and BOBBY DODD.	:	
in his official capacity as Chief of Police for the	:	
Chattanooga Police Department,	:	
	:	
Defendants.	:	

MOTION FOR PARTIAL DISMISSAL

COME NOW defendants Chattanooga Police Department, City of Chattanooga, and Bobby Dodd in his official capacity as Chief of Police for the Chattanooga Police Department, and move the Court, pursuant to Federal Rule of Civil Procedure 12(b)(6), for an order dismissing a portion of the plaintiffs' action based on failures to state a claim upon which relief can be granted, showing the Court the following:

1. Plaintiffs' claims against Chattanooga Police Department should be dismissed in their entirety as the Chattanooga Police Department is not an entity capable of being sued under 42 U.S.C. § 1983 suit;
2. Plaintiffs' claims against Bobby Dodd in his official capacity as Chief of Police should be dismissed in their entirety as a claim against an individual in his official capacity is actually a claim against the individual's employing government entity and would be a redundant claim as the City of Chattanooga is a defendant in this

action;

3. Tennessee State Lodge of The Fraternal Order of Police's claims should be dismissed in their entirety as the Tennessee State Lodge of The Fraternal Order of Police has failed to allege facts showing it has standing to bring a claim under 42 U.S.C. § 1983; and,
4. Plaintiffs' claims for punitive damages should be dismissed in their entirety as punitive damages are not recoverable in a 42 U.S.C. § 1983 suit from a municipality or an individual sued in his official capacity.

WHEREFORE Defendants pray that its motion for partial dismissal be GRANTED, that all claims against the Chattanooga Police Department and Bobby Dodd be dismissed, that all claims brought by the Tennessee State Lodge of The Fraternal Order of Police be dismissed, and that all claims for punitive damages be dismissed. In the alternative, should this Court deny the Defendants' Motion, the Defendants respectfully request additional time to file a responsive pleading to the Plaintiffs' Complaint.

This 20th day of December, 2013.

Respectfully submitted,

CITY OF CHATTANOOGA, TENNESSEE
OFFICE OF THE CITY ATTORNEY

By: /s/ Keith J. Reisman
PHILLIP A. NOBLETT - BPR #10074
Deputy City Attorney
KEITH J. REISMAN – BPR #26974
ELIZABETH RODERICK – BPR #22762
Assistant City Attorneys
Attorneys for Chattanooga Police Department,
City of Chattanooga and Bobby Dodd, in his

*official capacity as Chief of Police for the
Chattanooga Police Department
100 East 11th Street, Suite 200
Chattanooga, Tennessee 37402
(423) 643-8250*

CERTIFICATE OF SERVICE

I hereby certify that a copy of this pleading was filed electronically. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

This 20th day of December, 2013.

/s/ Keith J. Reisman
KEITH J. REISMAN